

Since this time, ORS and Seahorse have entered into a settlement agreement, attached to this Order as Exhibit A, for which they now seek Commission approval without a hearing. Central to this agreement is the parties' request that Seahorse be

recognized as a “submeterer” of water and wastewater services under Commission Order No. 2003-214 (April 15, 2003) as opposed to being defined as a “public utility” under S.C. Code Ann. §§ 58-5-10(4) (Supp. 2007). Tangential to this issue, Seahorse also seeks Commission approval for the transfer of the Dale Valley water and wastewater system from Bartlett Real Estate, Inc. to the Company. As a preliminary matter, this transfer is approved.

By statute, a public utility includes every corporation and person that delivers, furnishes, or supplies water, sewer collection, or sewage disposal in any manner to the public for compensation. S.C. Code Ann. §§ 58-5-10(4) (Supp. 2007). Although Seahorse acknowledges that it supplies individually metered water and sewage collection to the residents of Dale Valley through its pipes, the Company maintains that these tenants receive water from and discharge wastewater to the Charleston Water System. On a monthly basis, this regional entity then bills Seahorse directly for the water and sewer services, and Seahorse then (through a third party biller) passes the costs of these services to tenants without mark-up. No additional charges are added for the cost of calculating, preparing, or sending the bills to tenants. Further, Seahorse does not pass costs through to tenants in the water bills for maintenance and replacement of the Property’s pipes, but does increase the charges to tenants consistent with rate increases received and billed by the Charleston Water System.

From the description of these activities undertaken by Seahorse, it appears that the Company is in fact submetering Charleston Water Systems’ water and sewer service to the residents of Dale Valley and not providing these services for compensation. Simply

undertaking the activities of measuring the commodity and providing billing functions do not make submeterers "public utilities." As noted in Order No. 2003-214, submeterers of water and wastewater services do not meet the statutory definition of a "public utility," and should not therefore be regulated by this Commission as jurisdictional utilities, in that such submeterers do not actually "furnish or supply" the commodity, but merely measure the amount of flow of water or wastewater and provide billing functions.

In the settlement agreement, Seahorse agrees that it will not bill Dale Valley's residents for any water or wastewater costs other than the pass through charges the tenants incur according to their individual water and sewer use from Charleston Water System. Additionally, the Company agrees that ceasing or suspending service to tenants is a remedy to which only regulated utilities are entitled, and Seahorse will not turn off services to individuals for failure to pay charges. Therefore, based upon the foregoing, the Commission finds and holds:

1. Seahorse is a submeterer according to Order No. 2003-214 and not a "public utility" under S.C. Code Ann. § 58-5-10(4).
2. As a submeterer and not a regulated utility, Seahorse shall only pass through actual water and sewer service charges incurred from Charleston Water System according to the metered usage of individual tenants of the Dale Valley Mobile Home Park. No other water or sewer charges are allowed to be billed to these tenants.
3. Turning off water supply to individuals for failure to pay charges constitutes the "furnishing or supplying [of] water," and Seahorse shall be deemed to be a public utility, as defined in S.C. Code Ann. § 58-5-10(4), if it performs this practice.

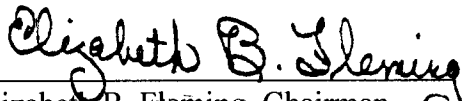
4. The transfer of the system from Bartlett Real Estate, Inc. to Seahorse and/or Britt Gaston is approved.

5. Seahorse is ordered to operate in accord with the provisions of this Order and Order No. 2003-214.

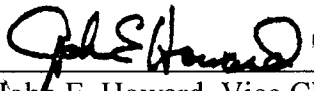
6. The settlement agreement is approved.

7. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
Elizabeth B. Fleming, Chairman

ATTEST:

  
John E. Howard, Vice Chairman  
(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2008-192-WS**

**August 15, 2008**

Petition of the Office of Regulatory Staff for a	)	
Declaratory Order Against Seahorse Investment	)	<b>SETTLEMENT AGREEMENT</b>
And/or Britt Gaston Requiring Certification as a	)	
Water and Sewer Utility and the Posting of a	)	
<u>Performance Bond</u>	)	

This Settlement Agreement is made by and between the South Carolina Office of Regulatory Staff ("ORS") and Seahorse Investment, LLC and/or Britt Gaston (together referred to as "the Company") (together referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, ORS filed a Rule to Show Cause against the Company requiring certification as a water and sewer utility and the posting of a performance bond;

WHEREAS, the Company is the owner and operator of a 66-unit mobile home park located at 7021 Stall Road in the North Charleston area of Charleston County, South Carolina;

WHEREAS, property tenants receive water from and discharge wastewater to Charleston Water System, and the Company is billed directly on a monthly basis for water and sewer service;

WHEREAS, the Company owns the water and sewer pipes on the property and is responsible for their repair and replacement,

Page 1 of 7

WHEREAS, the Company has a system by which it separately meters the water usage of each tenant and can turn water on or off to individual tenants;

WHEREAS, S.C. Code Ann. § 58-5-10(4) (Supp. 2007) defines a public utility as “every corporation and person furnishing or supplying in any manner . . . water, sewerage collection . . . to the public, or any portion thereof, for compensation . . .”;

WHEREAS, the Public Service Commission (“Commission”) in Order. No. 2003-214 ruled that submeterers of water and wastewater services did not fall under the definition of a public utility and were outside the jurisdiction of the Commission;

WHEREAS, the Parties disagree and have a legitimate dispute and difference of legal opinion regarding the legal status of and necessity for the Respondent to be a certificated and regulated public utility;

WHEREAS, the Parties have varying legal positions regarding the issues in this case;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests and in the case of ORS, in the public interest;

WHEREAS, following those discussions the Company has determined that its interests and ORS has determined that the interests of the State of South Carolina and the using and consuming public would be best served by stipulating to a comprehensive settlement of all issues pending in the above-captioned case under the terms and conditions set forth herein;

NOW, THEREFORE, the Parties hereby stipulate and agree to the following terms:

1. The Company seeks to operate as a submeterer in accordance with Commission Order No. 2003-214 and additional requirements as set forth in this settlement agreement.

2. The Company agrees to pass through the costs of water and sewer service to tenants at cost and without mark-up to each tenant based upon the tenant's actual usage. The Company may increase the charge to tenants consistent with rate increases received and billed by the Charleston Water System.

3. The Company pays a third party to read the meters and bill the tenants. The Company agrees that no additional charges for calculating, preparing, or sending the bills to tenants may be included in the bill passed along to each tenant.

4. The Company agrees that no additional costs for maintenance, repair, or replacement of the pipes or other elements of the system may be passed through to tenants.

5. The Company agrees not to pass through billing of employment cost allocations, management functions, and other items outside the charges based on actual usage as set forth in paragraph 2.

6. The Company agrees that ceasing or suspending service to tenants is a remedy to which only regulated utilities are entitled, and the Company will not turn off services to individuals for failure to pay charges.

7. The Company agrees it will file a request to approve the transfer of the system from Bartlett Real Estate, Inc. to the Company. The transfer approval request and accompanying deed are attached as Exhibit 1 to the Settlement Agreement. This transfer approval request is made in conjunction with the Settlement Agreement. Should the Commission decline to approve the Settlement Agreement in its entirety, the Company reserves the right to withdraw its current request and file a transfer approval request in conjunction with a rate establishment case.

8. The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable, and full resolution of the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

9. The Parties agree not to introduce or use this Settlement Agreement to constrain, inhibit, impair, or prejudice the other party in other proceedings. If the Commission should decline to approve the agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty or obligation.

10. This Settlement Agreement shall be interpreted according to South Carolina law.

11. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement



and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

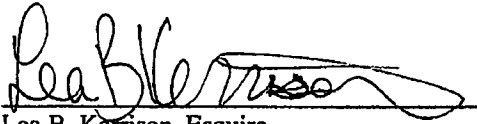
WE AGREE:

**Representing the South Carolina Office of Regulatory Staff**

Shealy Boland Reibold  
Shealy Boland Reibold, Esquire  
**South Carolina Office of Regulatory Staff**  
1441 Main Street, Suite 300  
Columbia, SC 29201  
Phone: (803) 737-0863  
Fax: (803) 737-0895  
E-mail: [sreibol@regstaff.sc.gov](mailto:sreibol@regstaff.sc.gov)

WE AGREE:

**Representing Seahorse Investment, LLC and Britt Gaston**

A handwritten signature in black ink, appearing to read "Lea B. Kerrison", written over a horizontal line.

Lea B. Kerrison, Esquire

**Young Clement Rivers, LLP**

28 Broad Street (P.O. Box 993)

Charleston, South Carolina 29401 (29402)

Phone: (843) 724-6640

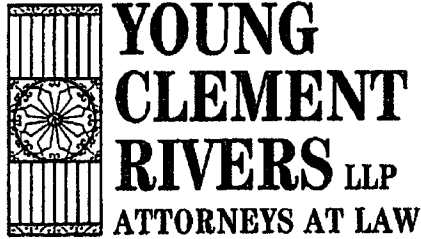
Fax: (843) 579-1328

Email: [lkerrison@ycrlaw.com](mailto:lkerrison@ycrlaw.com)

CHARLESTON  
28 BROAD STREET  
P.O. Box 993  
CHARLESTON, SC 29402-0993  
TELEPHONE: (843) 577-4000

www.ycrlaw.com

Other Office:  
Columbia, SC



Lea B. Kerrison

Direct Dial: (843) 724-6640  
Direct Fax: (843) 579-1328  
E-mail: LKerrison@ycrlaw.com

August 15, 2008

**Delivered By: Shealy B. Reibold, Esquire**

The Honorable Charles Terenni  
Chief Clerk and Administrator  
Public Service Commission of South Carolina  
101 Executive center Drive, Suite 100  
Columbia, SC 29210

Re: Docket No. 2008-192-WS  
YCR File: 13819-20080994

Dear Mr. Terenni:

In accord with the proposed settlement agreement submitted to the Commission in the above-referenced docket, please accept this letter as a request that transfer of the ownership of the Dale Valley Mobile Park ("Dale Valley") from Bartlett Real Estate, Inc. to Seahorse Investments, LLC ("Seahorse"). A copy of the deed evidencing the transfer, recorded in the Charleston County RMC Office at Book L587, Page 318, is enclosed for reference.

Dale Valley contains approximately sixty-six units and is located at 7021 Stall Road, North Charleston, South Carolina. Water and sewer service for Dale Valley were provided by S.D. Utilities, LLC during the time in which Bartlett Real Estate, Inc. owned and operated the property. Per the South Carolina Secretary of State, S.D. Utilities, LLC dissolved on July 3, 2006, shortly after the sale of Dale Valley to Seahorse. It is apparent from the review of the Charleston County RMC Office records that S.D. Utilities, LLC never owned a real property interest in Dale Valley.


As stated in the settlement agreement, this request is made in conjunction with a joint request that Seahorse be deemed a submeterer by the Commission, and we request that the Commission deny approval in the event Seahorse shall not be deemed a submeterer. In such event, Seahorse shall make a more extensive request, including supporting documentation for rate approval.

We appreciate that Commission's consideration of this request and look forward to full resolution of Docket 2008-192-WS.

Very truly yours, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

A handwritten signature in black ink, appearing to read "Lea B. Kerrison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lea B. Kerrison

LBK/ktb

Enclosures

cc: Shealy B. Reibold, Esquire

\_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

KNOW ALL MEN BY THESE PRESENTS, that **Bartlett Real Estate, Inc** (the "Grantor,") in the state aforesaid, in consideration of the sum of **One Million Seventy Five Thousand and 00/100 DOLLARS (\$1,075,000 00)**, to the Grantor in hand paid at and before the sealing of these presents by **Seahorse Investments, LLC** (the "Grantee,") the receipt whereof is hereby acknowledged, has granted, bargained, sold, and released, and by these presents does grant, bargain, sell, and release unto the said **Seahorse Investments, LLC**, its successors and assigns, the following described real property, to wit

**All that piece, parcel or lot of land, with the improvements thereon, situate, lying and being on the West side of Stall Road, in the County of Charleston, State of South Carolina, measuring and containing 9.45 acres, more or less, and being more particularly shown on a plat by A.L. Glen, Reg P E and L S, dated June 6, 1967; said plat being recorded in the RMC Office for Charleston County on June 14, 1967, in Plat Book W, at Page 41, entitled "Map of 9.45 Acre Tract owned by Ethel B Neal, Situated West of Stall Road and East of Southern RR, Charleston County, SC," said property having such size, shape, dimensions, buttings and boundings as are shown on said plat which is made a part hereof**

## ALSO

**All that piece, parcel or tract of land, with the improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, known and designated as Lot B, on a plat entitled "Plat of Dale Valley Mobile Home Park, near Midland Park Showing a 1.33 Acre Tract About to be Added to the Existing Park," made by James F. Bennett, dated April 1978, and recorded in Plat Book AK, at page 114, in the RMC Office for Charleston County Said property having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.**

**This conveyance is made subject to any and all existing reservations, easements, rights-of-way, zoning ordinances, and restrictive or protective covenants that appear of record or that may be discerned by inspection of the premises. This being the same property conveyed to Bartlett Real Estate, Inc. by Deed of Dale Valley, Inc., a South Carolina Corporation, dated August 15, 2001 and recorded in Book M380 at Page 891, Charleston County Recorders Office.**

TMS# 478-13-00-018 (for both parcels)  
Grantee's address 9 Seahorse Court, Isle of Palms, SC 29451

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging, or in anywise incident or appertaining

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the Grantee herein above named, its successors and assigns forever

AND THE GRANTOR does hereby bind the Grantor and its successors and assigns to warrant and forever defend all and singular the said premises unto the Grantee herein above named, its successors and assigns against the Grantor and the Grantor's successors and assigns and against every person or entity whomsoever lawfully claiming to claim the same or any party thereof

WITNESS its hand and seal this 9<sup>th</sup> day of June, 2006

Signed, Sealed and Delivered  
in the Presence of

[Signature]  
Witness #1  
[Signature]  
Witness #2

Bartlett Real Estate, Inc

By [Signature]

Its President

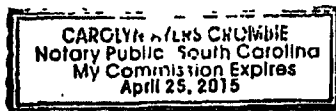
STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

# ACKNOWLEDGEMENT

BEFORE ME personally appeared, Elizabeth Bartlett as President of Bartlett Real Estate, Inc to me well known to be the person described in and who executed the within instrument, and she acknowledged to and before me, an officer duly authorized in the state and county aforesaid to take acknowledgments, that she executed said instrument for the purposes therein expressed therein

WITNESS my hand and official seal this 9<sup>th</sup> day of June 2006

[Signature]  
Notary Public for SOUTH CAROLINA  
My Commission expires \_\_\_\_\_  
(NOTARIAL SEAL)



STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

AFFIDAVIT

OK L 587PG320

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says, that to the best of seller's knowledge

- 1 I have read the information on this Affidavit and I understand such information
- 2 The property is being transferred BY Bartlett Real Estate, Inc TO Seahorse Investments, LLC  
ON June 9 2006
- 3 Check one of the following *The DEED is (check one)*
  - (a) ☒ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth
  - (b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary
  - (c) ☐ EXEMPT from the deed recording fee because (exemption# \_\_\_\_\_)  
(Explanation if required) \_\_\_\_\_  
(If exempt, please skip items 4-6, and go to item 7 of this affidavit )
- 4 Check one of the following if either item 3(a) or item 3(b) above has been checked
  - (a) ☒ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$1,075,000 00
  - (b) ☐ The fee is computed on the fair market value of the realty which is \$ \_\_\_\_\_
  - (c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ \_\_\_\_\_
- 5 Check YES ☐ or NO ☒ to the following A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer If "YES," the amount of the outstanding balance of this lien or encumbrance is \$ \_\_\_\_\_
- 6 The DEED Recording Fee is computed as follows
  - (a) \$1,075,000 00 the amount listed in item 4 above
  - (b) \$0 00 the amount listed in item 5 above (no amount place zero)
  - (c) \$1,075,000 00 Subtract Line 6(b) from Line 6(a) and place the result
- 7 As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor
- 8 I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both

Bartlett Real Estate, Inc

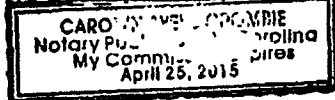
By Elizabeth N. Bartlett

Its PRESIDENT

Sworn to before me this 9th  
day of June 2006

Carol Ann Crombie  
Notary Public for SOUTH CAROLINA

My Commission Expires \_\_\_\_\_ (NOTARIAL SEAL)

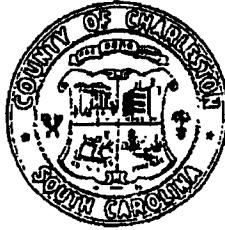




BK L 587PG321

## RECORDER'S PAGE

NOTE: This page MUST remain  
with the original document



**FILED**

June 14, 2006

10 24 14 AM

BK L 587PG318

Charlie Lybrand, Register  
Charleston County, SC

Filed By

Finkel & Altman

Attorneys at Law

P O Box 71727

N Charleston

SC 29415

AMOUNT

DESCRIPTION

Recording Fee	\$ 10 00
State Fee	\$ 2,795 00
County Fee	\$ 1,182 50
Postage	

TOTAL \$ 3,987 50

\$ Amount (in thousands) 1075

DRAWER

C - slw

AUDITOR STAMP HERE

RECEIVED FROM RMC

JUN 26 2006

PEGGY A. MOSELEY  
CHARLESTON COUNTY AUDITOR

PID VERIFIED BY ASSESSOR

REP. *[Signature]*

DATE JUN 26 2006

DO NOT STAMP BELOW THIS LINE

843-968-4800 101 MEETING STREET CHARLESTON, SC 29401 www.charlestoncounty.org

Exhibit A

Page 13 of 13

Docket No. 2008-192-WS

Order No. 2008-725

October 28, 2008